

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

‘ĪLIO‘ULAOKALANI COALITION, a)	Civil No. 04-00502 DAE BMK
Hawai‘i nonprofit corporation; NĀ ‘IMI)	
PONO, a Hawai‘i unincorporated)	SUPPLEMENTAL DECLARATION
association; and KĪPUKA, a Hawai‘i)	OF DAVID L. HENKIN; EXHIBITS
unincorporated association,)	“66”-“93”
)	
Plaintiffs,)	
)	
v.)	
)	
DONALD H. RUMSFELD, Secretary of)	
Defense; and FRANCIS J. HARVEY,)	
Secretary of the United States)	
Department of the Army,)	
)	
Defendants.)	
)	
)	

SUPPLEMENTAL DECLARATION OF DAVID L. HENKIN

I, DAVID L. HENKIN, declare under penalty of perjury that:

1. I am an attorney at law, duly licensed to practice before this Court, and am the lead attorney for plaintiffs ‘Īlio‘ulaokalani Coalition, Nā ‘Imi Pono, and Kīpuka (collectively, “the Hawaiian Groups”) in this action.

2. I make this Declaration in support of the Hawaiian Groups’ Supplemental Memorandum Re: Interim Injunction. This declaration is based on my personal knowledge, and I am competent to testify about the matters contained herein.

3. Attached hereto as Exhibit “66” are excerpts from a true and correct copy of Federal Defendants’ Second Response to Plaintiffs’ First Set of Interrogatories and Request for Production of Documents and Things and Second Supplemental Response (served Dec. 1, 2006).

4. Attached hereto as Exhibit “67” are excerpts from a true and correct copy of Federal Defendants’ First Supplemental Response to Plaintiffs’ First Set of Interrogatories and Request for Production of Documents and Things (served Nov. 29, 2006).

5. Attached hereto as Exhibit “68” is a true and correct copy of a map showing proposed maneuver areas at Dillingham Training Area, which defendants produced on December 1, 2006.

6. Attached hereto as Exhibit “69” are excerpts from a true and correct copy of Federal Defendants’ Response to Plaintiffs’ First Set of Interrogatories and Request for Production of Documents and Things (served Nov. 28, 2006).

7. Attached hereto as Exhibit “70” is a true and correct copy of a briefing containing descriptions of proposed training scenarios for Ranges KR 3-6 at Schofield Barracks, which defendants produced on December 1, 2006.

8. Attached hereto as Exhibit “71” are excerpts from a true and correct copy of the Programmatic Biological Assessment for Routine Military Training and Transformation of the 2nd Brigade, 25th Infantry Division (Light), U.S. Army, Oahu, Hawaii, dated April 2003. These excerpts supplement the excerpts from the O‘ahu Biological Assessment previously submitted as the Hawaiian Groups’ Exhibit “12.”

9. Attached hereto as Exhibit “72” are excerpts from a true and correct copy of the Deposition of Ronald L. Borne, taken on December 4, 2006, together with true and correct copies of selected deposition exhibits. Please note that, for ease of reference, consecutive Bates-stamp numbers have been added to deposition exhibits 18 and 19.

10. Attached hereto as Exhibit “73” are excerpts from a true and correct copy of the U.S. Army Training and Doctrine Command’s Initial Entry Training Soldier’s Handbook (Sept. 1, 2006) (TRADOC Pam 600-4).

11. Attached hereto as Exhibit “74” are excerpts from a true and correct copy of a March 30, 2006 PowerPoint briefing by the U.S. Army Armament Research, Development & Engineering Center (“ARDEC”) entitled “Cost Reducing Material for 40mm Practice Cartridges.”

12. Attached hereto as Exhibit “75” are excerpts from a true and correct copy of the Headquarters, Department of the Army’s Army Ammunition Data Sheets, Small Caliber Ammunition (April 1994) (TM 43-0001-27).

13. Attached hereto as Exhibit “76” is a true and correct copy of a letter dated September 7, 2006 regarding Section 106 consultations for the Schofield Barracks Battle Area Complex (“BAX”), which defendants produced on December 1, 2006.

14. Attached hereto as Exhibit “77” is a true and correct copy of a letter dated September 19, 2006 regarding Section 106 consultations for the Schofield BAX, which defendants produced on December 1, 2006.

15. Attached hereto as Exhibit “78” is a true and correct copy of a letter dated October 24, 2006 regarding Section 106 consultation on protection of Site

210 at Schofield Barracks' Qualification Training Area 1 ("QTR1"), which defendants produced on December 1, 2006.

16. Attached hereto as Exhibit "79" is a true and correct copy of the December 31, 2005 Declaration of Frederick A. Dodge, M.D., together with Exhibit "44" thereto, which was filed in Mālama Mākua v. Rumsfeld, Civ. No. 00-00813 SOM LEK (D. Haw.) on January 5, 2006. Pursuant to stipulation with defendants' counsel, the Hawaiian Groups are submitting this declaration in lieu of a new declaration from Dr. Dodge.

17. Attached hereto as Exhibit "80" is a true and correct copy of the Army's April 12, 2004, Memorandum for Record re: Cultural Resources Monitoring following live-fire exercises at MMR. Defendants provided a copy of this document in response to discovery in Mālama Mākua v. Rumsfeld, Civ. No. 00-00813 SOM LEK (D. Haw.).

18. Attached hereto as Exhibit "81" are excerpts from a true and correct copy of Defendants' First Supplemental And Amended Answers To Plaintiff's First Set Of Interrogatories And Requests For Production Of Documents in Mālama Mākua v. Rumsfeld, Civ. No. 00-00813 SOM LEK (D. Haw.) (served Dec. 23, 2005).

19. Attached hereto as Exhibit “82” are excerpts from a true and correct copy of the Deposition of Colonel Stefan J. Banach, taken on December 7, 2006, together with true and correct copies deposition exhibits 2, 3, and 5, and excerpts from a true and correct copy of deposition exhibit 1.

20. Attached hereto as Exhibit “83” are excerpts from a true and correct copy of the administrative record herein for Defendants’ Environmental Impact Statement, Transformation of the 2nd Brigade, 25th Infantry Division (Light) to a Stryker Brigade Combat Team in Hawai‘i (“SEIS”). These excerpts supplement the excerpts from the SEIS administrative record previously submitted as the Hawaiian Groups’ Exhibit “3.”

21. Attached hereto as Exhibit “84” is a true and correct copy of a December 6, 2006 email from Army attorney Mark Katkow, responding to various questions that came up during the December 4, 2006 deposition of Ronald L. Borne.

22. Attached hereto as Exhibit “85” is an excerpt from a true and correct copy of the U.S. Fish and Wildlife Service’s April 4, 2003 Review of the Army’s Second Draft Biological Assessment for Routine Training and Stryker Brigade Combat Team Transformation: Schofield Barracks East Range. I received this

document from the U.S. Fish and Wildlife Service in response to a Freedom of Information Act Request.

23. Attached hereto as Exhibit “86” are excerpts from a true and correct copy of an In-Progress Review (IPR) Brief for Range 11T Upgrades, which defendants produced on November 28, 2006.

24. Attached hereto as Exhibit “87” is a true and correct copy of a map entitled “Composite SDZ Range 11 Tango, Cultural Resource Locations, Pohakuloa Training Area,” which defendants produced on December 1, 2006.

25. Attached hereto as Exhibit “88” is a true and correct copy of a document entitled “Army Manned & Unmanned Accident Data, Class A-C as of Nov 06,” which defendants produced on December 1, 2006.

26. Attached hereto as Exhibit “89” are excerpts from a true and correct copy of a document entitled “FLIGHT fax,” which defendants produced on December 1, 2006.

27. Attached hereto as Exhibit “90” is a true and correct copy of a document entitled “FY 2004-2007 UAV post-crash fires,” which defendants produced on December 1, 2006.

28. Attached hereto as Exhibit “91” is a true and correct copy of a November 22, 2006 letter from Office of Hawaiian Affairs (“OHA”) Administrator

Clyde Nāmu‘o to U.S. Army Garrison, Hawaii Director of Public Works Alan Goo, which I received from OHA.

29. Attached hereto as Exhibit “92” are excerpts from a true and correct copy of a Fort Lewis Command Briefing, which defendants produced on December 1, 2006.

30. Attached hereto as Exhibit “93” is a true and correct copy of a November 17, 2006 U.S. Department of Defense press release announcing deployments to Iraq scheduled to begin in early 2007, which I printed from the Defense Department’s official website: <http://www.defenselink.mil/Releases/Release.aspx?ReleaseID=10195>.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on December 14, 2006, at Honolulu, Hawai‘i.

/s/ David L. Henkin

David L. Henkin